

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1918**

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**Introduced by Assembly Member Davis**

February 16, 2010

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*An act to amend Sections 8281, 8283, 8284, and 8285 of the Public Utilities Code, relating to telecommunications.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1918, as amended, Davis. Public utilities: procurement: minority-, women-, disabled veteran-owned business enterprises.

*Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical, gas, water, and telephone corporations. Existing law authorizes the commission to establish rules for all public utilities, subject to control by the Legislature.*

*Existing law directs the commission to require every electrical, gas, water, and telephone corporation with annual gross revenues exceeding \$25,000,000, and their regulated subsidiaries and affiliates, to implement a program developed by the commission to encourage, recruit, and utilize minority-, women-, and disabled veteran-owned business enterprises, as defined, in the procurement of contracts from those corporations or from their regulated subsidiaries and affiliates, and to require the reporting of certain information. The commission, by rulemaking, has adopted General Order 156, applicable to certain electrical, gas, and telephone corporations, to effectuate these requirements.*

*This bill would extend the minority-, women-, and disabled veteran-owned business enterprises procurement requirements to*

wireless telecommunications service providers with gross annual revenues of more than \$25,000,000 and would encourage each electrical, gas, water, wireless telecommunications service provider, and telephone corporation that is not required to submit a plan to voluntarily adopt a plan for increasing women, minority, and disabled veteran business enterprise procurement in all categories.

Under existing law, a violation of any rules or orders of the commission is a crime. In addition, any person or corporation who falsely represents a business as a woman, minority, or disabled veteran business enterprise for the purposes of the programs discussed above is subject to criminal penalties.

Because a violation of the requirements of the bill would be a crime under those provisions, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law directs the Public Utilities Commission to require every electrical, gas, water, and telephone corporation with gross annual revenues exceeding \$25,000,000, and their regulated subsidiaries and affiliates, to implement a program developed by the commission to inform, recruit, and utilize minority-, women-, and disabled veteran-owned business enterprises, as defined, in the procurement of contracts from those corporations or from their regulated subsidiaries and affiliates, and to require the reporting of certain information. The commission, by rulemaking, has adopted General Order 156, applicable to certain electrical, gas, and telephone corporations, to effectuate these requirements.~~

~~This bill would state the intent of the Legislature to enact legislation to amend specified statutory provisions relating to that program to require cable television and wireless telecommunications service providers to comply with that general order.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

1     *SECTION 1. Section 8281 of the Public Utilities Code is*  
2     *amended to read:*

3     8281. (a) The Legislature hereby finds and declares that the  
4     essence of the American economic system of private enterprise is  
5     free competition. Only through full and free competition can free  
6     markets, reasonable and just prices, free entry into business, and  
7     opportunities for the expression and growth of personal initiative  
8     and individual judgment be assured. The preservation and  
9     expansion of that competition is basic to the economic well-being  
10    of this state and that well-being cannot be realized unless the actual  
11    and potential capacity of women, minority, and disabled veteran  
12    business enterprises is encouraged and developed. Therefore, it is  
13    the declared policy of the state to aid the interests of women,  
14    minority, and disabled veteran business enterprises in order to  
15    preserve reasonable and just prices and a free competitive  
16    enterprise, to ensure that a fair proportion of the total purchases  
17    and contracts or subcontracts for commodities, supplies,  
18    technology, property, and services for regulated public utilities are  
19    awarded to women, minority, and disabled veteran business  
20    enterprises, and to maintain and strengthen the overall economy  
21    of the state.

22    (b) (1) The Legislature finds all of the following:

23    (A) The opportunity for full participation in our free enterprise  
24    system by women, minority, and disabled veteran business  
25    enterprises is essential if this state is to attain social and economic  
26    equality for those businesses and improve the functioning of the  
27    state economy.

28    (B) Public agencies which have established short- and  
29    long-range women, minority, and disabled veteran business  
30    enterprise goals are awarding 30 percent or more of their contracts  
31    to these business enterprises.

32    (C) Women, minority, and disabled veteran business enterprises  
33    have traditionally received less than a proportionate share of  
34    regulated public utility procurement contracts.

35    (D) It is in the state's interest to expeditiously improve the  
36    economically disadvantaged position of women, minority, and  
37    disabled veteran business enterprises.

1 (E) The position of these businesses can be improved by  
2 providing long-range substantial goals for procurement by  
3 regulated public utilities of technology, equipment, supplies,  
4 services, materials, and construction work from women, minority,  
5 and disabled veteran businesses.

6 (F) That procurement also benefits the regulated public utilities  
7 and consumers of the state by encouraging the expansion of the  
8 number of suppliers for procurements, thereby encouraging  
9 competition among the suppliers and promoting economic  
10 efficiency in the process.

11 (2) It is the purpose of this article to do all of the following:

12 (A) Encourage greater economic opportunity for women,  
13 minority, and disabled veteran business enterprises.

14 (B) Promote competition among regulated public utility  
15 suppliers in order to enhance economic efficiency in the  
16 procurement of electrical, gas, water, *wireless telecommunications*  
17 *service provider*, and telephone corporation contracts and contracts  
18 of their commission-regulated subsidiaries and affiliates.

19 (C) Clarify and expand the program for the procurement by  
20 regulated public utilities of technology, equipment, supplies,  
21 services, materials, and construction work from women, minority,  
22 and disabled veteran business enterprises.

23 *SEC. 2. Section 8283 of the Public Utilities Code is amended*  
24 *to read:*

25 8283. (a) The commission shall require each electrical, gas,  
26 water, *wireless telecommunications service provider*, and telephone  
27 corporation with gross annual revenues exceeding twenty-five  
28 million dollars (\$25,000,000) and their commission-regulated  
29 subsidiaries and affiliates, to submit annually, a detailed and  
30 verifiable plan for increasing women, minority, and disabled  
31 veteran business enterprise procurement in all categories.

32 (b) These annual plans shall include short- and long-term goals  
33 and timetables, but not quotas, and shall include methods for  
34 encouraging both prime contractors and grantees to engage women,  
35 minority, and disabled veteran business enterprises in subcontracts  
36 in all categories which provide subcontracting opportunities.

37 (c) The commission shall establish guidelines for all electrical,  
38 gas, water, *wireless telecommunications service provider*, and  
39 telephone corporations with gross annual revenues exceeding  
40 twenty-five million dollars (\$25,000,000) and their

1 commission-regulated subsidiaries and affiliates, to be utilized in  
2 establishing programs pursuant to this article.

3 (d) Every electrical, gas, water, *wireless telecommunications*  
4 *service provider*, and telephone corporation with gross annual  
5 revenues exceeding twenty-five million dollars (\$25,000,000) shall  
6 furnish an annual report to the commission regarding the  
7 implementation of programs established pursuant to this article in  
8 a form that the commission shall require, and at the time that the  
9 commission shall annually designate.

10 (e) The commission shall provide a report to the Legislature on  
11 September 1 of each year, on the progress of activities undertaken  
12 by each electrical, gas, water, *wireless telecommunications service*  
13 *provider*, and telephone corporation with gross annual revenues  
14 exceeding twenty-five million dollars (\$25,000,000) pursuant to  
15 this article in the implementation of women, minority, and disabled  
16 veterans business enterprise development programs. The  
17 commission shall recommend a program for carrying out the policy  
18 declared in this article, together with recommendations for  
19 legislation that it deems necessary or desirable to further that  
20 policy.

21 (f) The Legislature declares that each electrical, gas, water,  
22 *wireless telecommunications service provider*, and telephone  
23 corporation that is not required to submit a plan pursuant to  
24 subdivision (a) is encouraged to voluntarily adopt a plan for  
25 increasing women, minority, and disabled veteran business  
26 enterprise procurement in all categories.

27 *SEC. 3. Section 8284 of the Public Utilities Code is amended*  
28 *to read:*

29 8284. (a) The commission shall, by rule or order, adopt criteria  
30 for verifying and determining the eligibility of women, minority,  
31 and disabled veteran business enterprises for procurement contracts.

32 (b) The commission shall develop, and require every electrical,  
33 gas, water, *wireless telecommunications service provider*, and  
34 telephone corporation with gross annual revenues exceeding  
35 twenty-five million dollars (\$25,000,000) and their  
36 commission-regulated subsidiaries and affiliates to implement, an  
37 outreach program to inform and recruit women, minority, and  
38 disabled veteran business enterprises to apply for procurement  
39 contracts under this article.

1     *SEC. 4. Section 8285 of the Public Utilities Code is amended*  
2     *to read:*

3     8285. Any person or corporation, through its directors, officers,  
4     or agents, which falsely represents a business as a women,  
5     minority, or disabled veteran business enterprise in the procurement  
6     of, or attempt to procure, contracts from an electrical, gas, water,  
7     *wireless telecommunications service provider*; or telephone  
8     corporation with gross annual revenues exceeding twenty-five  
9     million dollars (\$25,000,000), or a commission-regulated  
10    subsidiary or affiliate subject to this article, shall be punished by  
11    a fine of not more than five thousand dollars (\$5,000), by  
12    imprisonment in a county jail for not more than one year or in the  
13    state prison, or by both that fine and imprisonment. In the case of  
14    a corporation, the fine or imprisonment, or both, shall be imposed  
15    on every director, officer, or agent responsible for the false  
16    statements.

17    *SEC. 5. No reimbursement is required by this act pursuant to*  
18    *Section 6 of Article XIII B of the California Constitution because*  
19    *the only costs that may be incurred by a local agency or school*  
20    *district will be incurred because this act creates a new crime or*  
21    *infraction, eliminates a crime or infraction, or changes the penalty*  
22    *for a crime or infraction, within the meaning of Section 17556 of*  
23    *the Government Code, or changes the definition of a crime within*  
24    *the meaning of Section 6 of Article XIII B of the California*  
25    *Constitution.*

26    ~~SECTION 1. It is the intent of the Legislature to enact~~  
27    ~~legislation to amend Sections 8281, 8283, 8284, and 8285 of the~~  
28    ~~Public Utilities Code, relating to a program for increasing utility~~  
29    ~~procurement from minority-, women-, and disabled veteran-owned~~  
30    ~~business enterprises, to require cable television and wireless~~  
31    ~~telecommunications service providers to comply with General~~  
32    ~~Order 156 of the Public Utilities Commission.~~